IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9314 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SHIVPRAKASH P. MALHOTRA

Versus

UNION BANK OF INDIA

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Appearance:

1. Special Civil Application No. 9314 of 2001

MR MURALI N DEVNANI for Petitioner No. 1

MR KM PATEL for Respondent No. 1

NOTICE SERVED for Respondent No. 2-4

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CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 18/07/2002

ORAL JUDGEMENT

1. Rule. Mr.K.M. Patel waives service of rule on behalf of the respondents.

2. In this petition, the petitioner has made a grievance that though initially he had opted for the benefit of Voluntary Retirement Scheme introduced by the respondent - Bank with effect from 7th November, 2000, subsequently he had withdrawn the application before it was accepted and acted upon by the bank, the bank has not permitted him to withdraw this option and has retired him from service by paying the necessary amount. Some relevant dates which can be stated are as under :-

2.1. The Voluntary Retirement Scheme was introduced by the respondent - Bank with effect from 7th November, 2000. The petitioner made an application to avail the benefit of the said scheme on 1st December, 2000. He withdrew the said application dated 1st December, 2000 vide letter dated 1st March, 2001. The petitioner received letter dated 30th March, 2001 stating that his application for grant of benefit under V.R.S. had been accepted with effect from 20th April, 2001.

2.2. From the aforesaid dates, it clearly appears that the petitioner had withdrawn his application for grant of benefit under V.R.S. much before it was accepted by the respondent - Bank. In view of the decision rendered by this Court in Special Civil Application No.1024/2001 and its allied matters dated 9th May, 2002 wherein it has been held by the learned Single Judge that if the concerned employee of the Bank wishes to withdraw the application for grant of benefit under the said scheme, he can do it before it is accepted. The Bank has to permit such withdrawal if it is sought before the application for the grant of benefit is accepted. In view of the said decision it was incumbent upon the Bank to permit the petitioner to withdraw his application dated 1st December, 2000. In light of the ratio laid down by this Court in the aforesaid decision, this petition is, therefore, required to be allowed.

2.3. It has been brought to my notice by the learned counsel for the respondent that the petitioner has been paid a sum of Rs.13,55,351.73 paise after deducting a sum of Rs.4,12,587/- for the loan advanced to the petitioner by the Bank from a sum of Rs.17,77,944.73 paise, which the petitioner was entitled to receive under the scheme. The respondent is, therefore, directed to reinstate the petitioner on its original post with full wages with continuity of service on condition that the petitioner should repay the amount which was actually paid to him under the aforesaid scheme at the rate of 9% from the date of the payment till the date of repayment. The petitioner is directed to repay its amount on or before

31st August, 2002.

2.4. Mr.K.M. Patel, learned counsel for the respondent submitted that though the aforesaid order of the Bank was passed on 30th March, 2001, the petitioner has approached this Court very late and for that ground alone this petition is required to be dismissed. This submission does not appeal to me because the delay is hardly of a year and it cannot be termed as "gross delay" in the circumstances of the present case. Moreover the petitioner has been called upon to return the amount together with the interest at the rate of 9%, it may therefore, protect the interest of the bank as well.

For the aforesaid reasons, petition is allowed. Rule is made absolute with no order as to costs.

18.7.2002. [AKSHAY H. MEHTA, J.]

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